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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-928]

Uncovered Innerspring Units from the People's Republic of China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce

SUMMARY: Based on available information, the Department of Commerce (Department) is self-initiating an anticircumvention inquiry to determine whether certain imports are circumventing the antidumping duty order on uncovered innerspring units (innerspring units) from the People's Republic of China (PRC).

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION:

Background

On December 31, 2007, Petitioner¹ filed a petition seeking imposition of antidumping duties on imports of uncovered innerspring units from, among other countries, the PRC.²

¹ Leggett and Platt, Incorporated.

² The petition also included imports of uncovered innerspring units from South Africa and the Socialist Republic of Vietnam. See *Uncovered Innerspring Units from the People's Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 73 FR 4817 (January 28, 2008).

Following the completion of investigations by the Department and the U.S. International Trade Commission, the Department imposed an antidumping duty order on subject merchandise.³

In the sixth administrative review of the *Order*,⁴ Petitioner requested that the Department review Macao Commercial and Industrial Spring Mattress Manufacturer (Macao Commercial) and East Grace Corporation. The Department initiated the review on April 3, 2015,⁵ and sent questionnaires to the named respondents, including Macao Commercial. During the course of the sixth administrative review, and in response to the Department's original and supplemental questionnaires, Macao Commercial acknowledged that it imports innerspring unit components from the PRC for use in the production of innerspring units in Macau.⁶ In the final results, the Department found that Macao Commercial failed to demonstrate that it had no shipments of PRC-origin innersprings, and assigned a rate to Macao Commercial using adverse facts available. The Department stated that this determination applied only with respect to Macao Commercial's PRC-origin subject merchandise, but explained that it intended to evaluate whether self-initiation of a circumvention inquiry would be warranted based upon information submitted during the review and in light of the Department's prior circumvention findings in this proceeding.⁷

³ See *Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009) ("*Order*").

⁴ The sixth administrative review covered the period of review ("POR") February 1, 2014, through January 31, 2015. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 18202 (April 3, 2015).

⁵ *Id.*

⁶ See, e.g., Memorandum to the File "Factual Information from the Sixth Administrative Review," dated concurrently with this initiation notice (AR6 Factual Information Memo), at Attachment 1. In the *AR6 Final Results*, we found that "Macao Commercial submitted this inventory report in two different exhibits within its July 21, 2016 QR response and that within Exhibit 5 is an invoice for not just raw materials but PRC-origin innerspring components from Company X." See *Uncovered Innerspring Units from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 62729 (September 12, 2016) (*AR6 Final Results*) and accompanying Issues and Decision Memorandum at Comment 1.

⁷ See *AR6 Final Results*.

Scope of the Order

The merchandise subject to the *Order* is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.*, twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring. Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a “pocket” or “sock” of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the *Order* is dispositive.

Initiation of Circumvention Proceeding

Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act) provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anticircumvention inquiries, under section 781(b)(1) of the Act, the Department will also evaluate whether: (1) the process of assembly or completion in the other foreign country is minor or insignificant; (2) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (3) action is appropriate to prevent evasion of such an order or finding.

A. Merchandise of the Same Class or Kind

Available information shows that the innerspring units that Macao Commercial completes or assembles in Macau and subsequently ships to the United States are of the same class or kind as that subject to the *Order*.⁸ Macao Commercial acknowledged this fact in the sixth administrative review when it stated: “With respect to the Department’s request for documentation demonstrating ‘the production process of Macao Commercial and all affiliates in Macao that manufactured subject merchandise that was shipped to the United States during the POR,’ as previously advised, Macao Commercial is the only entity which manufactures innersprings sold and shipped to the U.S.”⁹

⁸ See AR6 Factual Information Memo at Attachment 2, page 6.

⁹ *Id.*

B. *Completion of Merchandise in a Foreign Country*

The *Order* indicates that innerspring units are assembled from three key components: steel wire coils, helical wires, and in certain cases border rods.¹⁰ Information from the sixth administrative review indicates that Macao Commercial sources components used in the production of innerspring units from the PRC, the country with respect to which the *Order* applies, and that Macao Commercial then sells innerspring units to the United States.¹¹

C. *Minor or Insignificant Process*

Under section 781(b)(2) of the Act, the Department will take into account five factors to determine whether the process of assembly or completion of merchandise in a foreign country is minor or insignificant. An examination of these factors indicates that Macao Commercial's process of assembly and completion of innerspring units in Macau is likely not significant.

(1) *Level of Investment in Macau*

The level of investment to assemble innerspring components into innerspring units appears to be limited. In initiating a prior circumvention inquiry under the *Order*, we cited evidence that the process employed to assemble innerspring components into innerspring units is relatively simple and requires only limited investment and labor. Petitioner explained that the start-up investment costs and the barriers to entry into manual and semi-automatic assembly

¹⁰ The United States International Trade Commission also noted that innerspring coils and border rods are major components of an innerspring unit. See *Uncovered Innerspring Units from South Africa and Vietnam*, USITC Pub. 4051, Inv. Nos. 731-TA-1141-1142 at I-11 (December 2008) (hereinafter, "*USITC Uncovered Innersprings Report*"). In its final determination regarding imports of uncovered innersprings from the PRC, the Commission adopted the findings and analyses in its determinations and views regarding subject imports from South Africa and Vietnam with respect to the domestic like product, the domestic industry, cumulation, and material injury. *Uncovered Innerspring Units from China*, USITC Pub. 4061, Inv. No. 731-TA-1140 at 3 and I-1 (February 2009).

¹¹ See AR6 Factual Information Memo at Attachment 2, pages 6-8 and Exhibit 1, and Attachment 1, at page 10; see also AR6 *Final Results*, and accompanying Issues and Decision Memorandum at 6-9.

operation are low.¹² In particular, Petitioner provided evidence that in the most basic, fully-manual operation, coils are assembled manually using a wooden or steel jig in which the coils (continuous or bonnell)¹³ are hand-loaded, then hand-laced with helical wire and finished by clipping the border rods to the unit.¹⁴ Petitioner estimated that the cost of a new wooden (or steel) jig is approximately \$200-\$400.¹⁵ The information provided by Petitioner in that inquiry indicated that the level of investment would also be low for companies that rely on a semi-automated assembly operation where a machine is used to assemble the rows of coils. Macao Commercial's production process does not appear to be markedly different than the assembly operations described above.¹⁶

(2) *Level of Research and Development in Macau*

In the sixth administrative review, there was no evidence of Macao Commercial performing any research and development related to the assembly and/or production of innerspring units. Moreover, we would not expect Macao Commercial to incur significant (if any) research and development expenses related to its innerspring assembly operations, given that in a prior circumvention inquiry, the respondent affirmatively stated that innerspring units are a "mature" product and that its research and development activities were limited to "trial and

¹² See *Uncovered Innerspring Units from the People's Republic of China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order*, 79 FR 78792 (December 31, 2014) (*Goldon Initiation*) and Memorandum to the File "Factual Information from the Goldon Circumvention Inquiry," dated concurrently with this initiation notice (Goldon Factual Information Memo), at Attachment at page 10.

¹³ Bonnell coils, the most commonly used type of coils in innerspring units, have an hour-glass shape which tapers inward from top to center and then outward from the center to bottom. Bonnell coils are generally the lowest priced units and the type of coil generally used in imported innerspring units. Continuous coils have entire rows of continuous coils formed from a single piece of wire. For a more detailed description of the types of innerspring coils, see *USITC Uncovered Innersprings Report* at I-8 to I-10.

¹⁴ See Goldon Factual Information Memo at Attachment at pages 10-11. A somewhat more advanced assembly operation may involve manual assembly using a wooden or steel jig in which the coils are hand-set, and a lacing machine is used to feed the helical to join the rows, and then the borders are manually clipped to the unit. *Id.*

¹⁵ *Id.*

¹⁶ See AR6 Factual Information Memo at Attachment 2, Exhibit 1.

error” type manufacturing improvements.¹⁷ The Department found this level of research and development to be minor, and did not change this finding in the final determination.¹⁸

(3) *Nature of the Production Process in Macau*

In the sixth administrative review, Macao Commercial indicated that its manufacturing process for assembling innerspring units from imported components appears to be relatively simple and does not require significant start-up costs, sophisticated machinery and inputs, or substantial labor.¹⁹ This process, as described by Macao Commercial, is similar to the process found to be insignificant by the Department in a prior circumvention inquiry under this *Order*.²⁰

(4) *Extent of Production Facilities in Macau*

In initiating a prior circumvention inquiry under this *Order*, we relied upon evidence that the company in question had one production facility with only six to seven workers involved in assembly of innersprings units, with another one or two workers devoted to packing.²¹ Macao Commercial’s information from the sixth administrative review shows that its production facilities are similarly limited in nature. It has one modestly-sized facility devoted to the assembly and packing of innersprings, the production machinery required is not extensive,²² and the amount of labor involved appears minimal.²³

¹⁷ See *Uncovered Innerspring Units from the People’s Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 78 FR 41784 (July 11, 2013), and accompanying Preliminary Decision Memorandum at 6.

¹⁸ See *Uncovered Innerspring Units from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 79 FR 3345 (January 21, 2014), and accompanying Issues and Decision Memorandum (*Reztec Final Determination*).

¹⁹ See AR6 Factual Information Memo at Attachment 2, Exhibit 1.

²⁰ See *Uncovered Innerspring Units from the People’s Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 78 FR 41784 (*Goldon Prelim*), and accompanying Preliminary Decision Memorandum (unchanged in final).

²¹ See *Goldon Initiation*.

²² See AR6 Factual Information Memo at Attachment 2, Exhibit 1.

²³ See AR6 Factual Information Memo at Attachment 1, Exhibit 3 (Macao Commercial’s financial statement showing a minimal amount of direct labor expenses).

(5) *Value of Processing in Macau as Compared to Uncovered Innerspring Units Imported into the United States*

We do not have information showing whether the value of assembling the innerspring components into finished units by Macao Commercial represents a small portion of the total value of the unit imported into the United States. Nonetheless, in initiating a prior circumvention inquiry under this *Order*, we cited evidence provided by the Petitioner that the value of assembly processing performed in another third country (Malaysia) likely represented a small portion of the total value of the innerspring units imported into the United States.²⁴ We find that this information is relevant here. This information indicates that similar assembly operations in Macau would likely represent an insignificant portion of the total value.

D. *Value of Merchandise Produced in the PRC*

In initiating a prior circumvention inquiry under this *Order*, we cited evidence that the value of the components that the respondent imported from the PRC for further assembly in Malaysia into subject merchandise was a significant portion of the total value of the innerspring units exported to the United States.²⁵ As noted previously, innerspring coils, helical wires, and border rods are key components of an innerspring unit. Petitioner explained that these components also constitute a significant portion of the overall costs of an innerspring unit.²⁶ Because Petitioner did not have access to other PRC innerspring unit producer/exporter costs, it conducted an analysis related to the production costs of various innerspring unit models at its own facility in Guangzhou, PRC. Petitioner believed that its operation (and costs) in the PRC are representative of the operations (and costs) of other PRC innerspring unit

²⁴ See *Goldon Initiation* and Goldon Factual Information Memo Attachment at pages 12-13.

²⁵ Goldon Factual Information Memo Attachment at 14-15.

²⁶ *Id.*

producers/exporters, as it is the largest producer of innersprings in the PRC.²⁷ According to Petitioner's analysis of its own production costs in the PRC, the total value of these innerspring components compose a significant portion of the total value of an innerspring unit.²⁸ Similarly, based on the limited information available from the sixth administrative review, we find that the value of production in the PRC appears to comprise a significant portion of the value of Macao Commercial's innersprings units.²⁹

E. Additional Factors for Consideration

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the *Order*.

(1) Pattern of Trade

Macao Commercial stated that it expressly set up the flow of trade of innerspring components from the PRC in order to make Macau the country of origin for shipment to countries with antidumping duty orders.³⁰ Additionally, data from the United States International Trade Commission DataWeb show a significant increase of U.S. imports of innerspring units from Macau since the imposition of the *Order*.³¹

(2) Affiliation

Macao Commercial is affiliated with a producer of subject merchandise in the PRC and is also affiliated with other Macanese companies involved in the innersprings industry.³²

Generally, the Department considers circumvention to be more likely to occur when the

²⁷ *Id.* at 14-15 and Exhibit 6.

²⁸ *Id.*

²⁹ See AR6 Factual Information Memo at Attachment 1, Exhibit 3.

³⁰ See AR6 Factual Information Memo at Attachment 1, page 3.

³¹ See Memorandum to the File "Innerspring Units Import Data," dated concurrently with this initiation notice.

³² See AR6 Factual Information Memo at Attachments 1 and 2.

manufacturer of the PRC-origin merchandise is related to the third country assembler and is a critical element in our evaluation of circumvention.³³

(3) Increase of Subject Imports from the PRC to Macau after the Investigation Initiation

We did not examine any evidence regarding an increase in subject imports (*i.e.*, completed uncovered innerspring units) from the PRC to Macau after the initiation of the investigation. Further, Macao Commercial stated in the sixth administrative review that it does not transship PRC-origin innerspring units to the United States.³⁴ Nonetheless, this factor does not appear particularly relevant in a completion/assembly in a third country circumvention inquiry because the issue is not subject imports from the PRC to Macau, but rather parts for assembly.³⁵

F. Whether Action Is Appropriate to Prevent Evasion of the Order

Based on the factual information placed on the record concurrently with this initiation, and for the reasons provided in the analysis above, pursuant to section 781(b)(1)(E) of the Act, the Department determines that initiating an anticircumvention inquiry is appropriate to identify any potential evasion of the *Order*.

Analysis of the Request

Based on our analysis of the record information from prior segments placed on the record concurrently with this initiation, and our prior circumvention findings under this *Order*, the Department determines that this self-initiation of an anticircumvention inquiry is warranted. Pursuant to 19 CFR 351.225(b), the Department will notify by mail all parties on the Department's scope service list of the initiation of an anticircumvention inquiry.

³³ See *Goldon Prelim*, and accompanying Preliminary Decision Memorandum at "Affiliation."

³⁴ See AR6 Factual Information Memo at Attachment 3, page 2.

³⁵ See, *e.g.*, *Goldon Initiation*.

In accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise. This circumvention inquiry covers Macao Commercial. If, within sufficient time, the Department receives a formal request from an interested party regarding potential circumvention of the *Order* by other Macanese companies, or if the Department determines from available information that an inquiry is warranted with respect to other Macanese companies, we will consider conducting additional inquiries concurrently.

The Department will establish a schedule for questionnaires and comments on the issues. In accordance with 19 CFR 351.225(f)(5) and section 781(f) of the Act, unless extended, the Department intends to issue its final determination within 300 days of the date of publication of this initiation. This notice is published in accordance 19 CFR 351.225(f).

Dated: November 16, 2014

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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